

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILLIAM COWAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2519

Decision No. CU-**3310**

PROPOSED DECISION

Claimant, WILLIAM COWAN, who owned a stock interest in the Cia. Azucarera Vertientes-Camaguey de Cuba, asserts a claim in the amount of \$67,442.75 as amended under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Ruth Anna Haskew (Claim No. CU-0849 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$46.3946.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Haskew decision; that he was an American national at the requisite times.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

On the basis of evidence of record, the Commission finds that claimant acquired 200 shares of Vertientes stock by purchase on September 1, 1960 for a consideration of \$592.50 and 1,000 shares on May 28, 1962 for a consideration of \$1,185.00.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571).

The Commission finds that claimant, upon his purchase of the securities, succeeded to the loss sustained by the assignor of the claimed securities and concludes that he succeeded to and suffered a loss in the total amount of \$1,777.50 (the price he paid) as a result of the nationalization of the Company on August 6, 1960.

Claimant has set out a summary of his transactions in stock of Vertientes-Camaguey Sugar Co., reflecting the purchase of 1,500 shares in 1959 and their

subsequent sale; the purchase of 300 shares on August 31, 1960, and their subsequent sale; and the purchase of the above-described 1,200 shares on September 1, 1960 and May 28, 1960. He claims the difference between his selling figures and the value per share as found by the Commission.

Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owners two items of property, namely, an interest in the net worth of the corporation and an interest in any claim for the nationalization. The sale of the shares in the nationalized corporation may effect transfer of either or both interests, depending upon the intention of the parties to the transaction. The burden of proving the nature of the transaction rests with the claimant.

In the instant claim claimant has not alleged that he retained any interest in a claim for the nationalization of the corporation in question nor does the record establish that any such interest was retained. Therefore, in the absence of evidence to the contrary, the Commission concludes that when claimant sold his stock, he transferred all rights incident thereto. (See Claim of Mitgang et al, Cu-2649). Accordingly, so much of the claim as is based on the value of stock sold by claimant, is denied.

The Commission has decided that in certification of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement, (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case, it is so ordered.

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from the dates below, which claimant acquired this claim, to the date on which provisions are made for the settlement thereof:

<u>FROM</u>	<u>ON</u>
September 1, 1960	\$ 592.50
May 28, 1962	<u>1,185.00</u>
	\$1,777.50

CERTIFICATION OF LOSS

The Commission certifies that WILLIAM GOWAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Seven Hundred Seventy-Seven Dollars and Fifty Cents (\$1,777.50) with interest at 6% per annum from the aforesaid dates date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

NOV 20 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)